

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
HOWARD WILLIAMS, JR.

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 842

FINAL
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

THIS MATTER being the appeal of a \$25 civil penalty for an alleged open burning violation of respondent's Regulation I; having come on regularly for formal hearing before the Pollution Control Hearings Board on the 4th day of September, 1975, at Seattle, Washington; and appellant Howard Williams, Jr. appearing pro se and respondent Puget Sound Air Pollution Control Agency appearing through its attorney, Keith D. McGoffin; and Board members present at the hearing being Walt Woodward and Chris Smith and the Board having considered the sworn testimony, exhibits, records and files herein

1 and having entered on the 18th day of September, 1975, its proposed
2 Findings of Fact, Conclusions of Law and Order, and the Board
3 having served said proposed Findings, Conclusions and Order upon
4 all parties herein by certified mail, return receipt requested
5 and twenty days having elapsed from said service; and

6 The Board having received no exceptions to said proposed
7 Findings, Conclusions and Order; and the Board being fully advised
8 in the premises; now therefore,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
10 Findings of Fact, Conclusions of Law and Order, dated the 18th day
11 of September, 1975, and incorporated by this reference herein and
12 attached hereto as Exhibit A, are adopted and hereby entered as the
13 Board's Final Findings of Fact, Conclusions of Law and Order herein.

14 DONE at Lacey, Washington, this 16th day of October, 1975.

15 POLLUTION CONTROL HEARINGS BOARD

16 
17 _____
18 CHRIS SMITH, Chairman

19 
20 _____
21 WALT WOODWARD, Member

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23
24
25
26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
AND ORDER

CERTIFICATION OF MAILING

I, LaRene Barlin, certify that I deposited in the United States mail, copies of the foregoing document on the 16th day of October, 1975, to each of the following-named parties, at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Mr. Keith D. McGoffin
Burkey, Marsico, Roval, McGoffin
Turner and Mason
P. O. Box 5217
Tacoma, Washington 98405

Puget Sound Air Pollution Control Agency
410 West Harrison Street
Seattle, Washington 98119

Mr. Howard Williams, Jr.
4721 - 127th Street S.W.
Tacoma, Washington 98499


LARENE BARLIN
POLLUTION CONTROL HEARINGS BOARD

FINAL FINDINGS OF FACT,
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AND ORDER

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This matter, the appeal of a \$25 civil penalty for an alleged open burning violation of respondent's Regulation I, came before the Pollution Control Hearings Board (Walt Woodward, presiding officer, and Chris Smith) at a formal hearing in the Seattle facility of the State Board of Industrial Insurance Appeals on September 4, 1975.

Appellant appeared pro se, respondent through Keith D. McGoffin. Eugene Barker, Olympia court reporter, recorded the proceedings.

EXHIBIT A

1 Witnesses were sworn and testified. Exhibits were admitted.

2 From testimony heard and exhibits examined, the Pollution
3 Control Hearings Board makes these

4 FINDINGS OF FACT

5 I.

6 Respondent, pursuant to Section 5, chapter 69, Laws of 1974,
7 3d Ex. Sess., has filed with this Board a certified copy of its
8 Regulation I containing respondent's regulations and amendments
9 thereto.

10 II.

11 Sections 9.02(d) and (k) of respondent's Regulation I permits
12 small residential outdoor fires of natural vegetation under
13 certain conditions providing permits are obtained from a local
14 fire protection agency when same is required. Section 3.29
15 authorizes respondent to levy a civil penalty of not more than \$250
16 for any violation of Regulation I.

17 III.

18 In the afternoon of March 19, 1975, an inspector on respondent's
19 staff witnessed a natural vegetation outdoor fire in the 12000 block
20 of Addison S.W. in the Ponders Corner area of Pierce County. He
21 attempted to contact appellant, who was at the scene of the fire,
22 but the two men did not communicate amicably.

23 As a result, respondent served on appellant Notice of Violation
24 No. 10191, citing Section 9.02 "without valid fire permit," and
25 Notice of Civil Penalty No. 1985 in the sum of \$25, which is the
26 subject of this appeal.

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

IV.

Appellant had obtained, on the morning of March 19, 1975, Burning Permit No. 2492 from the Pierce County Fire Protection District No. 2. He did not show the permit to the inspector. The fire qualified under terms of Burning Permit No. 2492 except that it was slightly larger than the permit dimensions, and except that the fire was ignited by someone else (appellant, who is the father of the resident and who lives nearby) than the resident.

V.

Any Conclusion of Law hereinafter recited which is deemed to be a Finding of Fact is adopted herewith as same.

From these facts, the Pollution Control Hearings Board comes to these

CONCLUSIONS OF LAW

I.

Appellant was in technical, but minimal, violation of Section 9.02 but not as specifically cited in Notice of Violation No. 10191.

II.

In view of the circumstances, immediate collection of the amount in Notice of Civil Penalty No. 1985 is not warranted.

III.

Any Finding of Fact herein which is deemed to be a Conclusion of Law is adopted herewith as same.

Therefore, the Pollution Control Hearings Board issues this
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

ORDER

The appeal is denied, but payment of the \$25 in Notice of Civil Penalty No. 1985 is suspended pending no similar violation for three months from the date this order becomes final.

DONE at Lacey, Washington this 18th day of September, 1975.

POLLUTION CONTROL HEARINGS BOARD

Chris Smith
CHRIS SMITH, Chairman

Walt Woodward
WALT WOODWARD, Member

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER